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SUBJECT: OMAN PROPOSAL FOR IPR ENFORCEMENT TRAINING

REF: STATE 55928

Summary

¶1. (U) The Omani government is committed to protecting intellectual property, as evidenced by its efforts to strengthen its legal framework and willingness to work with the USG and other international organizations in raising awareness of the issue. Enforcement concerns remain, however, and Omani officials would welcome further technical assistance from U.S. counterparts to help improve the Sultanate's enforcement capabilities, especially in light of the U.S.-Oman Free Trade Agreement (FTA). Types of assistance and training needed include programs that illustrate best practices in patent processing, investigations of satellite and software piracy, and techniques used to discern real from counterfeit products.
End Summary.

Legal Framework

¶2. (U) Under the FTA, Oman has committed itself to providing strong intellectual property rights protection. The government is finalizing new industrial property and copyright laws to comply with its obligations prior to the FTA's entry into force. In addition, Oman is strengthening its industrial property regulations, and will introduce new optical disc regulations and a decree controlling the government's use of software. Under its FTA obligations, Oman will provide increased IPR protection for copyrights, trademarks, geographical indications, and patents. Oman will also improve enforcement and protection of undisclosed test data from unfair commercial use.

¶3. (U) These revisions will build upon Oman's existing IPR regime, already strengthened by the passage of WTO-consistent intellectual property laws in 2000 on copyrights, trademarks, industrial secrets, geographical indications and integrated circuits. Currently under Oman's TRIPs-compliant trademark law, trademarks must be registered and noted in the Official Gazette through the Ministry of Commerce and Industry. Oman's copyright protection law extends protection to foreign copyrighted literary, technical, or scientific works; works of the graphic and plastic arts; and sound and video recordings. In order to receive protection, a foreign-copyrighted work must be registered with the Omani government by depositing a copy of the work with the government and paying a fee. Since January 1999, the government has enforced copyright protection for audio and videocassettes, and destroyed stocks of pirated cassettes

seized from vendors. The government did not extend protection to foreign-copyrighted software until late 1998, when it declared that retailers must halt the importation and sale of non-licensed software by July 1, 1999.

¶4. (U) Oman joined the World Intellectual Property Organization (WIPO) in February 1997, and registered as a signatory to the Paris and Berne conventions on intellectual property protection in July 1999. Oman acceded to the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty in September 2005. In April 2007, the Omani government announced its intention to accede to several international IPR conventions and treaties, including the 1974 Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellites; the 1977 Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure; the 1989 Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks; the 1991 International Convention for the Protection of New Varieties of Plants; the 1994 Trademark Law Treaty; and the 2000 Patent Law Treaty.

Processing IP Applications

¶5. (SBU) The Ministry of Commerce and Industry's Intellectual Property Department is charged with processing intellectual property applications. The department employs eight people, with an additional four staff members employed on a temporary basis (with one of those on loan from a legal firm). The department, headed by a director, entails four offices, and uses another room and the adjacent hallway for the storage of files. In addition to the director, ten staff members work on trademarks, while one works on copyrights.

¶6. (SBU) Almost all of the department's work consists of trademark applications. Trademark searches are conducted through WIPO's electronic database, which it updates periodically. The Ministry maintains a card filing system to record local information on trademark applications. There are about 45,000 files on record, stored in six cabinets in a hallway, as well as in cabinets located in two other rooms.

¶7. (SBU) There is one staff member in the department who dedicates her time to processing copyright certificates for music, films, and pictures. She issues certificates recognizing the department's receipt of applications. Her office works with the court system in the enforcement of copyrights; recordkeeping is done by hand in the Arabic language. Copyright files are located in a Kardex filing cabinet. Copyright information is recorded in a large book; there is no database. The department does not conduct electronic searches. As the workload for copyrights is not that great, the staff member spends the balance of her time working on trademark searches.

¶8. (SBU) The department accepts patent applications, but only provides the applicant a priority date for when the documents were filed with the Ministry. There are three cabinets in a hallway that store patent applications. Most patent work (1500 files) is related to supporting Oman's commitments to the Patent Cooperation Treaty. Computer support comes from the respective department elsewhere in the Ministry.

Enforcement Efforts

¶9. (U) In October 2005, the government designated the Ministry of Commerce and Industry as the primary investigative authority on intellectual property issues, whose efforts are supported by the Royal Oman Police (ROP). To improve inter-ministerial coordination, a committee consisting of members from the Ministry of Commerce and Industry, Ministry of Information, Ministry of Heritage and Culture and the ROP meets regularly to review intellectual

property concerns. Enforcement of the copyright protection decree by this committee has been effective, as once plentiful pirated video and audiotapes and computer software have largely disappeared from local vendors' shelves. For example, in 2006, the government conducted a series of coordinated sweeps that netted over 40,000 counterfeited media products.

¶10. (U) Nonetheless, under-the-counter sales of unauthorized software and DVDs persist in various locations, and authorities continue to grapple with effective enforcement measures against such sales. To assist government efforts, the private sector has been active in promoting awareness and enforcement of intellectual property rights. For example, in late October 2003, 16 Omani companies signed the Business Software Alliance (BSA) Code of Ethics. The number of firms pledging compliance has now grown to almost 40. The Code of Ethics declares that signatories will neither commit nor tolerate the manufacture, or use or distribution of unlicensed software and will only supply licensed software to customers. The BSA recently began running joint advertisements with the Ministry in efforts to combat software piracy, and the government signed a three-year contract with Microsoft Corporation in 2006 for the use of the company's licensed products.

¶11. (SBU) Despite these steps, software piracy remains a concern. While Oman's efforts to protect IPR have received some praise from the BSA, the organization reported in its 2005 study of software piracy that Oman had made scant progress in reducing its piracy rate, which stood at 62%, only a single point lower than the rate for 2004. By contrast, the overall rate for the Middle East was 57%, with the UAE registering the region's lowest figure at 34%. The BSA remains concerned that enforcement efforts are not sufficient, and that penalties aren't strong enough to serve as a deterrent.

¶12. (SBU) Satellite signal theft also remains a concern. The Ministry of Commerce and Industry has staged sporadic raids on unlicensed distributors of pirated satellite signals in response to industry complaints, but industry representatives note that piracy still persists. Showtime Arabia officials described the extent to which cable splitting had permeated military installations, private sector facilities, and apartment residences. Showtime officials also expressed concern about the recent trend of selling encrypted signals over broadband lines, as well as satellite receiver box manufacturers selling units that by-pass security access codes. The Embassy has raised these concerns with the Ministry, which has worked previously with Showtime Arabia to address similar issues. The Ministry pledged to raise specific information provided by Showtime Arabia with colleagues at the ROP, but the problem persists.

International Cooperation

¶13. (U) The Ministry of Commerce and Industry, in coordination with WIPO, has conducted a number of seminars to raise national awareness of the importance of protecting intellectual property, such as the "WIPO International Seminar on the Strategic Use of Intellectual Property for Economic and Social Development." This seminar, featuring experts from both the public and private sectors, stressed the importance of IPR protection towards creating a conducive atmosphere for innovation and economic growth. Oman has also worked closely with the United States Patent and Trademark Office (USPTO) in the area of intellectual property rights protection. Several Omani officials from the Ministries of Commerce and Industry, Justice, and Health, and the ROP, have traveled to the United States for IPR training. Furthermore, the USPTO hosted IPR awareness and enforcement seminars for government officials in January and December 2006.

Assistance Needed

¶14. (U) Acknowledging the limitations in processing IP applications and difficulties in enforcing IPR, especially with advances in technology, the Ministry of Commerce and Industry welcomes further technical assistance from the USG in these areas. Such assistance would send a strong signal to the Omani government that the USG is committed to building the necessary skills for Oman to serve as an active partner in the protection of intellectual property.

¶15. (SBU) A pressing priority is the strengthening of the Ministry of Commerce and Industry's intellectual property office. The office is inexperienced in processing applications pertaining to patents, geographical indications, and integrated circuits. During the implementation phase of the FTA, Omani interlocutors have acknowledged this deficiency and have asked for technical assistance in addressing these shortcomings. An intensive training program conducted by the USPTO in Muscat would enable the staff members to learn about appropriate techniques for processing such applications beyond providing only a priority acceptance date.

¶16. (U) On enforcement, the Ministry of Commerce and Industry has indicated a need for its staff to become better acquainted with best practices in investigative techniques, especially as they relate to satellite and software piracy. A seminar for Omani officials by appropriate U.S. law enforcement officials and the private sector would enable the Omani government to better execute investigations that lead to prosecutions. The government also has inquired about a training module from appropriate USG agencies that would strengthen the ability of Omani customs and investigative officials in distinguishing between genuine and fake products in their efforts to eradicate counterfeits in the main shopping areas of Muscat and to stop them from entering Oman from the United Arab Emirates.

¶17. (U) Embassy looks forward to utilizing this program to enhance the Sultanate's ability to protect intellectual property in a free trade environment. Embassy point of contact on this matter is Economic/Commercial officer Brian Grimm, telephone number: (968) 24-698-989, extension 332, email: GrimmBM@state.gov.
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